

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JERMAINE DUNHAM,

Plaintiff,

11 Civ. 1223 (ALC) (HBP)

- against -

ORDER ADOPTING REPORT
AND RECOMMENDATION

CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, COMM. RAYMOND KELLY, PO
PHILIP LOBELLO, PO LEMAR OLIVER, and
ALAIN POLYNICE,

Defendants.

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>3-11-13</u>

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ANDREW L. CARTER, JR., United States District Judge:

On February 16, 2011, pro se Plaintiff Jermaine Dunham filed a Complaint against Defendants City of New York, New York City Police Department, Commissioner Raymond Kelly, Police Officer Philip Lobello, Police Officer Lemar Oliver, and Alain Polynice, alleging: (1) Plaintiff was subjected to excessive force during the course of an arrest, and (2) Plaintiff received inadequate medical care after his arrest in violation of 42 U.S.C. § 1983.

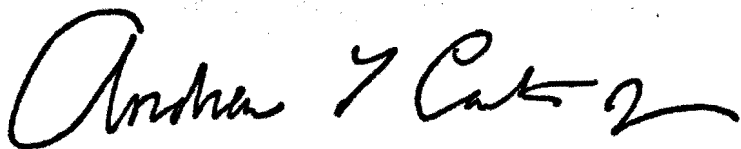
This matter was referred to Magistrate Judge Henry Pitman pursuant to a January 12, 2012 Order. Plaintiff filed a Motion to Strike on July 24, 2012, arguing Defendants' Answer should be stricken from the record pursuant to Fed. R. Civ. P. 12(f) because it fails to raise a sufficient defense. Plaintiff also

seeks a Temporary Restraining Order for the past actions alleged in the Complaint. No further briefing was submitted in response to Plaintiff's Motion.

After careful consideration, Magistrate Judge Pitman issued a Report and Recommendation ("R&R"), proposing the Motion to Strike be denied. Despite notification of the right to object to the R&R, no objections were filed. When no objection is made, the Court subjects the R&R to a clear error review. Arthur v. Goord, No. 06 Civ. 326 (DLC), 2008 WL 482866, at *3 (S.D.N.Y. Feb. 21, 2008) ("To accept those portions of the report to which no timely objection has been made, 'a district court need only satisfy itself that there is no clear error on the face of the record.'" (quoting Figueroa v. Riverbay Corp., No. 06 Civ. 5364 (PAC), 2006 WL 3804581, at *1 (S.D.N.Y. Dec. 22, 2006))). The Court's review finds no clear error, and accordingly, the Court **ADOPTS** Magistrate Judge Pitman's R&R in its entirety. The Motion to Strike is **DENIED**.

SO ORDERED.

Dated: New York, New York
March 11, 2013

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

Andrew L. Carter, Jr.
United States District Judge